

- d. If the Commission does not act to approve or reject an agreement adopted by arbitration within thirty (30) days after submission by the parties, the agreement shall be deemed approved.

**13.1.10. Bell Atlantic-West Virginia: Opportunity to Submit a Statement of Generally Available Interconnection Terms and Conditions**

- a. Bell Atlantic-West Virginia may prepare and file with the Commission a statement of the terms and conditions that it generally offers within West Virginia to comply with Rule Sections 13.1.1 through 13.1.5.
- b. The Commission will not approve a statement submitted pursuant to item 10a of this subsection, unless such statement complies with the pricing standards in Rule Section 13.1.6.c, and Rule Section 13.1.1 through 13.1.4. The Commission may establish or enforce other requirements of State law in its review of such statement to the extent that such requirements do not establish unreasonable barriers to entry in violation of Section 253 of the Communications Act.
- c. The Commission will not later than sixty (60) days after the filing of a statement by Bell Atlantic-West Virginia, (i) complete the review of such statement pursuant to Rule Section 13.1.9.2 (including any reconsideration thereof), unless such submitting carrier agrees to an extension of the period for such review; or (ii) permit such statement to take effect, subject to investigation.
- d. Item 10c in this subsection, does not preclude the Commission from continuing to review and approving or rejecting a Bell Atlantic-West Virginia statement that has been permitted to take effect subject to investigation.
- e. Bell Atlantic-West Virginia's submission or approval of a statement under this Rule Section 13.1.10 does not relieve it of its duty to negotiate the terms and conditions of interconnection agreements pursuant to Rule Sections 13.1.1 through 13.1.5.

**13.1.11. Filing Required.**

- a. The Commission shall make a copy of each agreement<sup>6</sup> approved under Rule Section 13.1.9 and each the Bell Atlantic-West Virginia

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<sup>6</sup> AT&T requested that the language "and contract tariff" be included here. This does not appear to be consistent with the Federal Act and is therefore not included.

statement approved under Rule Section 13.1.10 available for public inspection and copying within ten (10) days after the agreement or statement is approved.

- b. A LEC shall make available any interconnection, service, or network element provided under an agreement approved under Rule Section 13.1.9 to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions provided for in the agreement.

#### 13.1.12. Exemptions, Suspensions, and Modifications

##### a. Exemption of Rural Local Exchange Carriers

Rural Local Exchange Carriers (Rural LECs) are exempted from Section 13.1.4 until such time as the exemption is removed in accordance with Section 251(f) of the Telecommunications Act of 1996.

##### b. Suspension for Rural LECs with less than 10,000 access lines

1. For the service areas of the Rural LECs with less than 10,000 access lines in West Virginia as of January 1, 1996, the Commission has determined that the public interest, convenience and necessity would be served through an additional suspension of wire-based local competition in order to avoid a significant adverse economic impact on users of telecommunications services within such service areas and in order to avoid imposing a requirement that is unduly economically burdensome on such rural LEC. The additional suspension is described in Sections 2 and 3 of this subsection, below.
2. Notwithstanding Section 13.1.10.a., the obligations set forth in Sections 13.1.1 through 13.1.4 shall not be applicable to any rural LEC serving fewer than 10,000 lines for a period of three (3) years from the effective date of this rule if:
  - a. Within ninety (90) days of the effective date of this Rule, the LEC notifies the Commission of its intent to invoke this suspension; and
  - b. The LEC does not provide telecommunications service outside of its service area.

3. Notwithstanding the existence of a suspension under this subsection 13.1.10.b, if there is a bona fide request for a telecommunications service in an exchange which is operated by a rural LEC subject to subsection 13.1.10.b, and the LEC cannot provide the service within a reasonable time frame, the Commission may conduct an evidentiary hearing to determine whether the public interest will be served by authorizing another carrier to provide the requested service.

#### 13.1.13. Suspension and Modifications for Rural LECs

A Rural LEC may petition a Commission for a suspension or modification of the application of a requirement or requirements of Section 13.1. The Commission shall consider and grant any such petition in accordance with the requirements of Section 251(f) of the Telecommunications Act of 1996.

#### 13.1.14. Universal Service

- a. **Services Included as Part of Universal Service.** Universal service is an evolving concept which includes at a minimum, basic local exchange telephone service as defined in Section 1.7.3, and such other services as the Commission may from time to time classify as part of Universal Service.
- b. **Universal Service Principles.** The opening up of West Virginia local exchange service to competition should not adversely affect universal Service. In order to preserve and advance Universal Service in West Virginia, consumers in all regions of the State, including low-income consumers and those in rural and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, at affordable rates that are reasonable comparable to rates for those same services in urban and low-cost areas. In addition, schools, libraries and rural health care providers should have access to advanced telecommunications services and should be provided basic services at a discount. In order to achieve these goals, the Commission will be guided by the following principles in establishing rates for services included in the definition of universal Service:
  1. Services included as a part of Universal Service should bear no more than a reasonable share of joint and common costs of facilities used to provide those services.

2. All LECs should have pricing flexibility in exchanges where there is competition. Local exchange service can be rate deregulated in an exchange upon the finding by the Commission that workable competition exists as defined in West Virginia code §24-2-3(c).
  - a. A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition;
3. These principles shall apply to rates for both recurring and nonrecurring charges for services included as a part of Universal service.

#### 13.1.15. Universal Service Fund.

The Commission shall establish as soon as practicable a universal Service Fund ("USF") to advance and promote the state's policy of ensuring affordable basic local exchange service to all consumers in West Virginia. The USF shall, in a manner consistent with all applicable federal principles, be established in compliance with the additional following principles.

- a. The USF shall provide cost recovery<sup>7</sup> to the carrier of last resort and any other carriers<sup>8</sup> designated by the Commission in those exchanges deemed by the Commission to be high cost to the extent that the costs of providing basic local exchange service are not recovered from the revenues generated by reasonable rates charged to end users.<sup>9</sup>
- b. The USF shall also compensate LECs for discounts given to schools, libraries and rural health care providers.
- c. The USF shall be funded in a neutral manner by all providers of intrastate telecommunications services who shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the Commission<sup>10</sup>.

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<sup>7</sup> The level of cost recovery to be supplied by the USF is subject to Commission review.

<sup>8</sup> Some parties want payments from the USF to be limited to carriers of last resort. However, Section 214(e) of the Act allows USF support payments to any carrier which uses its facilities or a combination of its facilities and resale to provide service in an exchange and promotes the availability of that service throughout the exchange.

<sup>9</sup> Consensus not reached on this section. AT&T proposed deleting it, CAD prefers to retain it.

<sup>10</sup> Cellular One believes the cellular carriers should not be required to participate in funding a Universal Service Fund.

- d. the USF shall be administered by a third party as determined by the Commission.
- e. The USF shall periodically be adjusted and reviewed as the Commission shall determine.
- f. The USF established pursuant to this section shall be in addition to customer-targeted programs, which shall be funded by the providers themselves or through governmental or other third-party sources.